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Parties of h			ATTORNEY DOCKET NO.	CONFIRMATION NO.
APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR		8325
09/771,782	01/29/2001	Daniel P. Kelly	A00219US (98361.3)	
GARVEY, SMITH, NEHRBASS & DOODY, L.L.C.			EXAMINER	
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3838 North Car Metairie, LA	useway Boulevard		ART UNIT	PAPER NUMBER
Metanie, Eri	70002		3677	
			DATE MAILED: 07/08/2002	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Examin And Unit Andre' Jackson 3677 3			Application No.	Applicant(s)					
Andre' L. Jackson 3677	1		09/771,782	KELLY, DANIEL P.					
Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE £ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Expansions of the map by a evaluate under the processor of 3 CFR 1.18(a). In no event, however, may a rieply be timely filed after SIX (s) MONTHS from the mailing date of this communication. Feature of the map by a evaluation, the maximum statutory period will apply and will expense (s) (s) MONTHS from me mailing date of this communication. If IN Operadic reply is specified about, the maximum statutory period will apply will be provided to reply with the statutory period will apply will be considered timely. If NO period for reply is applied about, the maximum statutory period will apply will will provide (s) MONTHS from mailing date of this communication. Failure to reply which the set or extended priod for reply will, by statute, cause the application to become ALBANDONED (39 U.S.C. § 133). Any prays received by this Cities 200 of CFR 1.704(b). Status 1) ■ Responsive to communication(s) filed on 29 January 2001. 2a) □ This action is FINAL. 2b) □ This action is non-final. 3) □ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parts Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) □ Claim(s)is/are pending in the application. 4a) Of the above claim(s)is/are withdrawn from consideration. 5) □ Claim(s)is/are rejected. 7) □ Claim(s)is/are objected to by the Examiner. 10 □ The drawing(s) filed onis/are: a) □ accepted or b) □ objected to by the Examiner. Application Papers 9 □ The specification is objected to by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12 □ The oath or declaration is objected to by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12 □ The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119	*	Office Action Summary	Examin r	Art Unit					
A SHORTENDE STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MALLING DATE OF THIS COMMUNICATION. Extensions of time may be available under the grovisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filled Extensions of time may be available under the grovisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filled Extensions of time may be available under the grovisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filled Extensions of the groving of t	7			<u> </u>					
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3) Information Disclosure Statement(s) (P10-1449) Papel No(s)	2) Notic	e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO-1449) Paper No(s)	5) Notice of Informa	Patent Application (PTO-152)					

Application/Control Number: 09/771,782

Art Unit: 3677

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-12, 19-29 and 36, drawn to the method of marketing, classified in class705, subclass 10.
- II. Claims 13-18 and 30-35, drawn to the article, classified in class 63, subclass 3.
- III. Claims 37-46, drawn to the method of making, classified in class 264, subclass2.5.

The inventions are distinct, each from the other because of the following reasons:

Inventions III and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the process as claimed can be used to fabricate fishing lures.

Application/Control Number: 09/771,782

Art Unit: 3677

Inventions II and I are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the process of marketing the product as claimed can be practiced with hats, mugs, pennants and the like.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Seth Nehrbass on April 22, 2002 a provisional election was made without traverse to prosecute the invention of Group III, claims 37-46.

Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-36 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Page 4

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (703) 605-4276. The examiner can normally be reached on Mon. - Fri. (9 am - 5 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (703) 306-4115. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1018.

Andre' L. Jackson Patent Examiner AU 3677

ALJ July 1, 2002

> J. J. SWANN SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 3600